



COMMONS REGISTRATION ACT 1965

Reference No. 238/U/7

In the Matter of Ifieldwood Common (Part),
Rusper, West Sussex.

DECISION

This reference relates to the question of the ownership of land known as Ifieldwood Common (part), Rusper, being the land comprised in the Land Section of Register Unit No. CL 242 in the Register of Common Land maintained by the West Sussex County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Mr J.A. Farmer and Mr J.J.S. Farmer claimed to be the freehold owner of the land in question and no other person claimed to have positive information as to its ownership, but Mrs E. L. G. Carnall alleged through her solicitor that part of the land in question did not belong to the Farmer Estate or the Farmer family.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Chichester on 11th June 1976.

At the hearing Mr J.A. Farmer and Mrs Carnall appeared in person.

By a conveyance made 1st June 1944 between (1) The Westminster Bank Ltd and Dudley Herbert Farnfield (2) Pedigree Stock Farm Developments Ltd (3) Philip Cussins and Manny Cussins (4) Percy C. Farmer's Estates Ltd there were conveyed to the party of the fourth part (inter alia) the manor or lordship or reputed manor or lordship of Ifield and all manorial rights and privileges belonging thereto and enjoyed therewith including therein the exclusive rights to all timber and wood and sporting on and over the hereditaments known as Ifield Wood and containing about 70ac. shown coloured green on the plan drawn on the conveyance and also certain other grazing rights on or over the property conveyed and which constituted Lot 43 at an auction held by Messrs Knight, Frank and Rutley on 22nd July 1943. The land shown coloured green on the plan drawn on the conveyance included the whole of the land comprised in the Register Unit.

By a conveyance made 31st August 1967 between (1) Percy C. Farmer's Estate (2) James Arthur Farmer and John James Stewart Farmer (3) J. A. Farmer and J.J.S. Farmer the manor and other premises parcel of the conveyance of 1st June 1944 were conveyed to Mr J.A. Farmer and Mr J. J. S. Farmer.

I have been furnished with a copy of the 1943 auction particulars, and Lot 43 is described as "The Vendor's Interest in Ifield Wood Common — Forming part of the freehold (subject to Commoners' Rights) of the Manor or Lordship of Ifield and including the rights of the Lord of the Manor therein to the Timber" and is stated to be coloured green on the accompanying plan. The plan does not show any of the land the subject of the reference as forming part of Lot 43.



Mrs Carnall opened her case by saying that Mr J. A. Farmer and Mr J. J. S. Farmer could not be the owners of this land because it was common land. When I pointed out to her that all common land is owned by somebody, she said that if anybody owned it she did. She said that she had a conveyance which she had not brought with her. Mr J. A. Farmer stated that he would be content for me to decide the case after seeing a copy of Mrs Carnall's conveyance certified by her solicitors. With Mr Farmer's agreement, I thereupon closed the hearing.

Since the hearing I have been furnished with certified copies of conveyances which show that Mrs Carnall has a title to an area of land which is separated from the road by part of the land comprised in the Register Unit. These documents were accompanied by a letter from Messrs Yearwood & Griffiths, Mrs Carnall's solicitors, in which it is stated that Mrs Carnall does not suggest that she owns the freehold of the land comprised in the Register Unit, but contends that neither does Mr Farmer. They add that if Mr Farmer does own it, then Mrs Carnall is entitled to a right of way in fee simple for all purposes across it. I am, of course, not concerned with the existence of a right of way, but only with the ownership of the land.

There is nothing in Mrs Carnall's documents which throws any light on the question of the ownership of the land comprised in the Register Unit, so it only remains to consider her contention that it did not pass under the 1944 and 1967 conveyances because it was not coloured as part of Lot 43 on the plan referred to in the auction particulars. In my view, even if Mrs Carnall were right in her contention that the land in question did not form part of Lot 43, that would not conclude the matter in her favour. The parcels of the 1944 and 1967 conveyances included the manor or lordship or reputed manor or lordship of Ifield. By section 62 of the Law of Property Act 1925 a conveyance of a manor is to be deemed to include and by virtue of the Act operates to convey, with the manor, (inter alia) all wastes and commons, if and so far as a contrary intention is not expressed in the conveyance. Neither of the conveyances now under consideration contains any expression of such a contrary intention.

The land the subject of these proceedings has been registered as common land and that registration has become final. Therefore, the registration is by virtue of section 10 of the Act of 1965 conclusive evidence that the land is common land. There is no registration of any rights of common, so it follows that the land can only fall within the definition of "common land" in Section 22(1) of the Act of 1965 by being waste land of a manor not subject to rights of common. It therefore seems to me that the registration is conclusive evidence that the land in question is part of the waste land of a manor. There is nothing in the evidence before me to indicate that that manor is any other than the manor of Ifield. Since all the waste land of the manor of Ifield passed under the 1944 and 1967 conveyances by virtue of Section 62 of the Act of 1925,

I am satisfied that Mr J. A. Farmer and Mr J. J. S. Farmer are the owners of the land, and I shall accordingly direct the West Sussex County Council, as registration authority, to register them as the owners of the land under section 8(2) of the Act of 1965.



I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 8 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 26th day of July 1976.

A handwritten signature in cursive script, appearing to read 'C. D. Squire'.

Chief Commons Commissioner